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EXAMINER

MORGAN, ROBERT W

ART UNIT PAPER NUMBER

3626

DATE MAILED: 01/11/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	09/852,358	RODRIGUEZ-CUE, DOMINGO	
	Examiner	Art Unit	
	Robert W. Morgan	3626	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-3, 14, 17, 26, 31, 32, 36 and 42-45 is/are pending in the application.

4a) Of the above claim(s) 4-6, 8-13, 15, 16, 18-20, 22-25, 27-30, 33-35, 37-38 and 42-43 is/are withdrawn from consideration.

- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-3, 14, 17, 26, 31, 32, 36 and 44-46 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. ____. |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date <u>9/7/04, 10/25/05</u> . | 6) <input type="checkbox"/> Other: ____. |

DETAILED ACTION

Election/Restrictions

1. Applicant's election without traverse of Group I including claims 1-3, 14, 17, 26, 31, 32, 36 and 42-46 in the reply filed on 10/25/05 is acknowledged. Claims 7, 21 and 39-41 have been canceled, claims 4-6, 8-13, 15, 16, 18-20, 22-25, 27-30, 33-35, 37 and 38 have been withdrawn and claims 42-46 have been added.

Newly submitted claims 42 and 43 directed to an invention that is independent or distinct from the invention originally claimed for the following reasons: Claims 42 and 43 are dependent on claim 15 which is non-elected claim. Accordingly, claims 42 and 43 are withdrawn from consideration as being directed to a non-elected invention. See 37 CFR 1.142(b) and MPEP § 821.03.

The requirement is still deemed proper and is therefore made FINAL.

Information Disclosure Statement

2. The information disclosure statements filed on 9/7/04 and 10/25/05 has been entered and acknowledged.

Claim Objections

3. Claims 44 and 45 are objected to because of the following informalities: Claims 45 and 45 are identical. Appropriate correction is required.

Claim Rejections - 35 USC § 112

4. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

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5. Claim 46 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

The term "substantially paperless" in claim 46 is a relative term, which renders the claim indefinite. The term "substantially paperless" is not defined by the claim, the specification does not provide a standard for ascertaining the requisite degree, and one of ordinary skill in the art would not be reasonably apprised of the scope of the invention. The phrase "substantially paperless" does not teach a range, which defines the scope, therefore it is unclear as to whether software is paperless or not paperless.

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 1, 2, 17, 26, 44 and 45 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 6,544,173 to West et al. in view of U.S. Patent No. 6,375,614 to Braun et al.

As per claim 1, West et al. teaches a system for providing wireless, paperless medical care, comprising:

--the claimed server running software connected to a network, which provides connection for communication, including transmitting and receiving information and data electronically with at least one portable computer running software is met by network (30, Fig. 2) that includes at

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least one server system (50, Fig. 2) connected to the wireless portion of the network (see: column 9, lines 42-45). In addition, the network (30, Fig. 2) may include one or more wireless communication devices referred to herein as clinician terminal (52, Fig. 2), which may be a variety of different form such as Personal Digital Assistant, Internet Protocol telephone, portable computer, etc. (see: column 10, lines 4-11 and column 7, lines 64-67);

--the claimed server further being connected to clinical equipment for receiving data including test results from the clinical equipment is met by the patient monitor (22b, Fig. 6) that receives vital signs data and also includes an output port such as a RS-232 for connection to the terminal server (42, Fig. 6) (see: column 13, lines 16-34).

West et al. fails to teach the claimed providing real-time point-of-care laboratory testing, data capture and entry, treatment of patients, and billing.

Braun et al. teaches a system for providing comprehensive physiological data collection that includes software used to support communication with other device using TCP/IP protocol over a variety of different hardware media including RS-232 (see: column 5, lines 40-43). In addition, Braun et al. teaches software running on each workstation that provides both the display and analysis of features for real-time and post-acquisition evaluation of measured physiological signals (see: column 5, lines 45-49).

One of ordinary skill in the art at the time the invention was made would have found it obvious to include real time evaluation of information as taught by Braun et al. within the patient monitoring system as taught by West et al. with the motivation of providing physiological comprehensive monitoring in portable and remote setting that is less costly and more flexible (see: Braun et al.: column 1, lines 19-24).

As per claim 2, West et al. teaches the claimed clinical equipment is integrated with server via a universal equipment-integrating device. This limitation is met by the patient monitor (22b, Fig. 6) that receives vital signs data and also includes an output port such as a RS-232 for connection to the terminal server (42, Fig. 6) (see: column 13, lines 16-34).

As per claim 17, West et al. teaches the claimed server is connected to a local area network. This limitation is met by network (30, Fig. 2) that includes at least one server system (50, Fig. 2) connected to the wireless portion of the network (see: column 9, lines 42-45).

As per claim 26, West et al. teaches the claimed server software provides security and wherein the access to information input and output requires login. The network meets this feature, which is connected Internet via firewall (62, Fig. 3) or other suitable security device to restrict access (see: column 10, lines 64-67).

As per claim 44, West et al. teaches the claimed communication between the server and the portable computer is over a wireless network. This feature is met by network (30, Fig. 2) that includes at least one server system (50, Fig. 2) connected to the wireless portion of the network (see: column 9, lines 42-45). In addition, the network (30, Fig. 2) may include one or more wireless communication devices referred to herein as clinician terminal (52, Fig. 2), which may be a variety of different form such as Personal Digital Assistant, Internet Protocol telephone, portable computer, etc. (see: column 10, lines 4-11 and column 7, lines 64-67).

As per claim 45, West et al. teaches the claimed communication between the server and the portable computer is over a wireless network. This feature is met by network (30, Fig. 2) that includes at least one server system (50, Fig. 2) connected to the wireless portion of the network (see: column 9, lines 42-45). In addition, the network (30, Fig. 2) may include one or more

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wireless communication devices referred to herein as clinician terminal (52, Fig. 2), which may be a variety of different form such as Personal Digital Assistant, Internet Protocol telephone, portable computer, etc. (see: column 10, lines 4-11 and column 7, lines 64-67).

8. Claims 3, 14, 31, 32, 36 and 46 rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 6,544,173 to West et al. in view of U.S. Patent No. 6,375,614 to Braun et al. as applied to claim 1 above, and further in view of www.legacypress.com (hereinafter "Practice Today").

As per claim 3, West et al. and Braun et al. teach a network (30, Fig. 2) that may include one or more wireless communication devices referred to herein as clinician terminal (52, Fig. 2), which may be a variety of different form such as Personal Digital Assistant, Internet Protocol telephone, portable computer, etc. (see: West et al.: column 10, lines 4-11 and column 7, lines 64-67). In addition, West et al. and Braun et al. teach software running on each workstation that provides both the display and analysis of features for real-time and post-acquisition evaluation of measured physiological signals (see: column 5, lines 45-49).

West et al. and Braun et al. teach the claimed software includes at least one template for patient charts.

Practice Today Office Management Software System is for 95/98/00/NT and is a premier software system for physicians, dentists, and chiropractors that manage patient data, electronic medical records, patient billing, insurance claims, and much, much more (see: page 1, paragraph 1). In addition, Practice Today discloses an electronic medical record for a patient that includes at least one template for patient charts (see: page 3).

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Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to include the electronic medical record including a template for patient charts as taught by Practice Today with the system as taught by West et al. and Braun et al. with the motivation of creating a simple software solution to medical office management that is cost-effective, reliable, and comprehensive while easy to use by the medical, dental, and chiropractic industry.

As per claim 14, Practice Today teaches the claimed at least one template automatic integration of electronic medical records and pass through billing with code linking. The feature is met by integrated collection systems that allow the user to define custom procedure codes and fee schedule (see: page 5, page 6, paragraph 14-19).

As per claim 31, West et al. and Braun et al. teach software running on each workstation that provides both the display and analysis of features for real-time and post-acquisition evaluation of measured physiological signals (see: Braun et al.: column 5, lines 45-49).

West et al. and Braun et al. fail to teach insurance processing.

Practice Today Office Management Software System is for 95/98/00/NT and is a premier software system for physicians, dentists, and chiropractors that manage patient data, electronic medical records, patient billing, insurance claims, and much, much more (see: page 1, paragraph 1 and page 7).

The motivation of combining the teachings of Practice Today with the system as taught by West et al. and Braun et al. are discussed in rejection of claim 3, and incorporated herein.

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As per claim 32, Practice Today teaches the claimed insurance processing includes pass-through-billing. The feature is met by integrated collection systems that allow the user to define custom procedure codes and fee schedule (see: page 5, page 6, paragraph 14-19).

As per claim 36, West et al. and Braun et al. teach that each patient monitor (22b, Fig. 6) includes a controller (100, Fig. 7), which performs various functions such as receiving and analyzing vital signs data, presenting information to a user, etc... (see: column 13, lines 41-62).

West et al. and Braun et al. fail to teach communication with the patient.

Practice Today teaches a word processing function for producing letter, reports, and medical note templates to merge with patient data (see: page 8, paragraph 1-7 and page 9).

The motivation of combining the teachings of Practice Today with the system as taught by West et al. and Braun et al. are discussed in rejection of claim 3, and incorporated herein.

As per claim 46, West et al. and Braun et al. teach software running on each workstation that provides both the display and analysis of features for real-time and post-acquisition evaluation of measured physiological signals (see: Braun et al.: column 5, lines 45-49). In addition, West et al. and Braun et al. teaches software running on each workstation that provides both the display and analysis of features for real-time and post-acquisition evaluation of measured physiological signals (see: Braun et al.: column 5, lines 45-49).

West et al. and Braun et al. fail to teach:

--the claimed primary patient triage that includes an initial encounter, the software enabling entry of initial encounter information into a patient electronic medical records, which are stored on a server and accessible via at least one remote computer;

--the claimed secondary triage that includes a secondary encounter, the software enabling entry of secondary encounter information into the patient's electronic medical records;

--the claimed clinical encounter with at least one medical care provider, the software enabling entry of clinical encounter information including clinical equipment test results into the patient's electronic medical records;

--the claimed software enabling interpretation and management of the patient's medical records;

--the claimed entry of a treatment plan formulation into the patient's electronic medical records; and

--the claimed software enabling pass-through billing and insurance processing.

Practice Today teaches software including:

--the claimed primary patient triage that includes an initial encounter, the software enabling entry of initial encounter information into a patient electronic medical records, which are stored on a server and accessible via at least one remote computer is met by the electronic medical record that includes an allergies section (see: page 3);

--the claimed secondary triage that includes a secondary encounter, the software enabling entry of secondary encounter information into the patient's electronic medical records is met by the electronic medical record that includes an vital signs section (see: page 3);

--the claimed clinical encounter with at least one medical care provider, the software enabling entry of clinical encounter information including clinical equipment test results into the patient's electronic medical records is met by the electronic medical record that includes an Lab Word Pending section (see: page 3). In addition, Practice Today also teaches that a patient

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medications, diagnoses, allergies, vitals, and lab tests are easily merged into the patient's medical record (see: page 10, paragraph 5 and page 3);

--the claimed software enabling interpretation and management of the patient's medical records is met by a premier software system for physicians, dentists, and chiropractors that manage patient data, electronic medical records, patient billing, insurance claims, and much, much more (see: page 1, paragraph 1);

--the claimed entry of a treatment plan formulation into the patient's electronic medical records is met by the patient medications, diagnoses, allergies, vitals, and lab tests are easily merged into the patient's medical record (see: page 10, paragraph 5 and page 3 (active medications section)); and

--the claimed software enabling pass-through billing and insurance processing is met by the integrated collection systems that allow the user to define custom procedure codes and fee schedule (see: page 5, page 6, paragraph 14-19). In addition, Practice Today teaches a premier software system for physicians, dentists, and chiropractors that manage patient data, electronic medical records, patient billing, insurance claims, and much, much more (see: page 1, paragraph 1 and page 7).

Conclusion

10. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

In related art (5,713,350) Yokota et al. teaches a medical facilities system where medical treatment are performed at a plurality of location that include a server system capable of receiving and storing information.

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In related art (6,616,606) Petersen et al. discloses a wireless medical telemetry system including at least one wireless patient monitor configured to monitor a patient by collecting vital signs data from the patient.

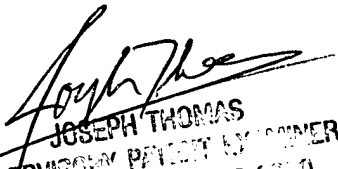
In related art (6,044,382) Martino teaches a form driven operating system that permits dynamic reconfiguration of any host processor into a virtual machine that supports any of a number of operating system independent application.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Robert W. Morgan whose telephone number is (571) 272-6773. The examiner can normally be reached on 8:30 a.m. - 5:00 p.m. Mon - Fri.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Joseph Thomas can be reached on (571) 272-6776. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

rwm


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